

U.S. EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

**IN RE
HAWAII FEDERAL ASBESTOS
CASES**

This Document AppliesTo:

Civil No. 04-00661 REJ-BMK

**MERCY S. BYINGTON, individually
and as Personal Representative of the
Estate of JIMMY F. BYINGTON,**

**deceased, EVELINE SHORT, and
BEVERLY ANN HAUOLI ANI, as
Prochein Ami for MARGARET
BARBARA HA'EIHA'E ANI, a minor,**

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

DECLARATION OF MS. LEI A. LUM

- 1 I, Lei A. Lum, declare as follows:
- 2 I reside at 1322 Akele Street, Kailua, HI 96734.
- 3 I am the Real Property Officer for the United States Air Force at Hickam AFB, Hawaii. I am employed in the 15th Civil Engineering Squadron.
- 4 I am familiar with the 1975 licensing agreement entered into by the USAF and the HIANG. A license is a document that federal agencies provide to non-Federal agencies wishing to utilize AF property. A license confers a privilege to occupy real property subject to the owner's requirements. A license is a privilege that can be withdrawn at will to use.
- 5 The original document issued to the Hawaii Air National Guard (HIANG) was a five-year license, with no exchange of money. The five-year term was later changed to an

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indefinite term, with no exchange of money. The license is still in effect today. The Air Force had express statutory and regulatory authority to enter into such licensing agreements with the HIANG pursuant to 32 U.S.C. §503 and Air Force Instruction 32-9003, and predecessor regulations that were in effect from 1975 to the present.

6. The original 1975 license agreement required the HIANG to maintain the premises in good repair, and provided that the USAF would not be responsible for injury to persons. The HIANG, which had its own asbestos management program, was responsible for managing the asbestos that was in the licensed buildings and for the health and safety of the state employees who worked in the buildings.

In accordance with 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 25, 2006.



Lei A. Lum